



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

JM:EMN/JMR
F.#2009R00579

271 Cadman Plaza East
Brooklyn, New York 11201

August 16, 2011

By ECF

The Honorable Sterling Johnson, Jr.
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. John Burke et al.
Criminal Docket No. 09-135 (S-5) (SJ)

Dear Judge Johnson:

The government respectfully writes in connection with its motion for an anonymous jury, which the Court granted yesterday with respect to the upcoming trial of the defendant David D'Arpino.

First, the government writes to correct a footnote in its motion relating to a past instance of jury tampering. (Docket Entry No. 236 at 3 n.2). The tampering with respect to the trial of former Gambino crime family boss John J. Gotti, which took place before the Honorable I. Leo Glasser in 1992, did not involve payoffs or violence concerning a specific juror. Rather, the tampering took place through (1) the phoning in of bomb threats into the courthouse during the trial and (2) a successful, concerted effort to discover the specific floor in the hotel where that jury was being sequestered.

Second, with respect to the government's request for partial sequestration, which the Court did not specifically discuss in yesterday's proceedings, the government has conferred with the U.S. Marshals Service, which confirms that it is

prepared to begin making the necessary transportation arrangements if the Court orders partial sequestration.

Respectfully submitted,

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cc: Counsel of Record (by ECF)
Clerk of Court (SJ) (by ECF)